

1 **UNITED STATES DISTRICT COURT**
2 **SOUTHERN DISTRICT OF TEXAS**
3 **HOUSTON DIVISION**

4 ULTRA PREMIUM SERVICES, * 4:19-CV-02277
5 LLC *
6 *
7 V. * 11:54 A.M. to 12:19 P.M.
8 *
9 OFS INTERNATIONAL, LLC, *
10 OILFIELD SERVICES AND *
11 TECHNOLOGIES, LLC, AND *
12 THREADING AND PRECISION *
13 MANUFACTURING, LLC * JULY 1, 2019

14 **HEARING ON MOTION FOR TEMPORARY RESTRAINING ORDER**
15 **AND PRELIMINARY INJUNCTION**
16 **BEFORE THE HONORABLE VANESSA D. GILMORE**
17 **Volume 1 of 1 Volume**

18 **APPEARANCES**

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7 Proceedings recorded by mechanical stenography.

8 Transcript produced by computer-assisted transcription.

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PROCEEDINGS

THE COURT: Okay. Ultra Premium Services v. OFS International, please. Come on up, please, lawyers.

MR. CARTER: Good morning, Your Honor.

THE COURT: Good morning or good afternoon? Is it still morning?

MR. CARTER: It is still morning by five minutes.

THE COURT: Is it still morning? I've been here so long, I'm stuck to my chair.

MR. AHMAD: Good morning, Your Honor.

THE COURT: It is still good morning, huh. It has been a long morning for me. All right. So have a seat whoever is not going to be talking.

Who is going to speak on behalf of the plaintiff, please?

MR. CARTER: I will be, Judge, Win Carter.

THE COURT: All right. And who is going to be speaking on behalf of the defendant, please?

MR. AHMAD: Sammy Ford and myself, Your Honor, Joe Ahmad.

THE COURT: All right. So this is the plaintiff's motion for temporary restraining order and preliminary injunction. Let me ask y'all a question. Two or three things, I guess. I don't know who to start with. Somebody, I guess that would be the plaintiff -- thank

1 you. Yes. That was the plaintiff.

2 The plaintiff also filed an emergency motion to
3 expedite discovery, and it seemed to me that some
4 discovery in terms of what is really going on might be
11:55:50 5 warranted in this case because it appears to me that there
6 might even be some confusion or just lack of information,
7 I guess, maybe from the plaintiff.

8 MR. CARTER: Lack of --

9 THE COURT: Lack of information from the
11:56:02 10 plaintiff in terms of what actual -- what is actually
11 being manufactured. You talked about one item. They said
12 that that was one they thought about doing, but that was a
13 couple of years ago, and they actually didn't do it. It
14 wasn't clear to me if most of your -- most of your
11:56:16 15 problems were with that device or the other one that we
16 could compare side by side. I wasn't sure.

17 Then after the fact I thought, I wonder which device
18 the plaintiff was actually talking about. Were they
19 talking about the one that the defendants are now saying
11:56:29 20 they never got around to doing or were they talking about
21 the one that they are manufacturing and then -- so it was
22 a little unclear to me.

23 And I'm not sure if it's even clear to you at this
24 time, which I'm guessing is the reason that you said, hey,
11:56:40 25 can we get some expedited discovery. Yes or no?

1 MR. CARTER: That's partially correct, Your
2 Honor.

3 THE COURT: Okay. Help me out.

4 MR. CARTER: So we believe that there are five.
11:56:50 5 We believe that there are five products that are being
6 copied.

7 THE COURT: Okay.

8 MR. CARTER: And the reason that it's a little
9 difficult to follow is because they come in different
11:57:02 10 sizes: 4-1/2 inch, 5-inch, 5-1/2 inch.

11 THE COURT: Okay.

12 MR. CARTER: They've raised one issue with one
13 set of components, one set of products. We have now
14 addressed that in a supplemental or in an affidavit that
11:57:17 15 we filed this morning.

16 THE COURT: I didn't see it. Do you know where I
17 have been all morning?

18 MR. CARTER: I do, Judge.

19 THE COURT: I've been sitting right in this chair
11:57:25 20 all morning long since very early.

21 MR. CARTER: And then there are --

22 THE COURT: What does your affidavit say?

23 MR. CARTER: Well, it discusses -- it's basically
24 responding to the affidavit of Mr. Jarvis that they filed.

11:57:36 25 THE COURT: So you are no longer making a charge

1 about the one that they didn't even manufacture? Is that
2 what you are saying?

11:57:46

3 MR. CARTER: Well, we are because they had to
4 use -- we believe that they had to use our information to
5 get to the point of manufacture. So --

6 THE COURT: I thought they didn't manufacture. I
7 thought the response was that the one that you are
8 alleging against them -- what is the name? 4 inch? What
9 is the number?

11:57:57

10 MR. AHMAD: A Python, I think 4-1/2 inch. We
11 don't make that. We make a 5-1/2.

12 THE COURT: Okay.

11:58:10

13 MR. CARTER: And what we -- what we have said was
14 they made a price quote, a quote to the customer for that
15 particular unit. For them to be able to quote a price to
16 the customer --

17 THE COURT: I know. But then what is happening
18 is --

19 MR. CARTER: They are going to --

11:58:14

20 THE COURT: Then they never manufactured or sold
21 it.

11:58:26

22 MR. CARTER: But the fact is that they are using
23 our trade secret information. Regardless of whether or
24 not they sold it or not, they are using our trade secret
25 information in violation not only of the contract but also

1 in violation of the --

2 THE COURT: Okay. But if they are not
3 manufacturing it and they didn't sell it, then let me tell
4 you the relevance that has to me today.

11:58:37 5 Don't put your finger up at me.

6 MR. CARTER: Yes, ma'am.

7 THE COURT: And stop ma'aming me.

8 MR. CARTER: Yes, Your Honor.

9 THE COURT: You know my rule, right?

11:58:40 10 MR. CARTER: Yes, Your Honor.

11 THE COURT: Don't call me ma'am. I am going to
12 put my little sign up on you, Mr. Carter.

13 The only issue then, that means that in terms of
14 today's proceeding I don't have an emergency. There may
11:58:56 15 be some trade secret problem there, and I'm not doubting
16 that there may be some trade secret issue from your
17 perspective if they are out there quoting, whether they
18 have sold it or not.

19 What I'm saying is that for today's purposes, I don't
11:59:11 20 have an emergency. I don't have a TRO situation. And I
21 feel like I need a lot more information. I feel like you
22 probably need a little bit more information, too, which is
23 why you filed this emergency motion for expedited
24 discovery.

11:59:24 25 I'm not sure, that even after having read all of this,

1 I have quite enough to figure out what trade -- I think
2 that -- I am sure on one thing. There is some trade
3 secrets and that you protected them. I know that for
4 sure. So that gets us past the first hurdle.

11:59:39 5 I'm not sure, even after having read everything, that
6 I can figure out what has been manufactured in violation
7 of your trade secrets, and I'm not even sure that you
8 completely know either, which is why you need this
9 emergency discovery.

11:59:52 10 So here is the reason that I'm bringing all this up as
11 an initial matter. Here is my thought on the whole thing.
12 My thought is why don't we forego a TRO today. Why don't
13 we do some quick discovery. And why don't we come back
14 and tell me what is really going on in either a
12:00:14 15 preliminary injunction hearing in short order or
16 consolidate a preliminary injunction with a trial on the
17 merits early in the fall.

18 My preference would be consolidating the preliminary
19 injunction with a trial on the merits in the fall and let
12:00:29 20 you all just do discovery the next two months. Expedited,
21 fast discovery, figure out what is going on, and let's
22 just tee this thing up and get it going.

23 Everybody knows what is going on. Everybody knows
24 their product. We know we have got some trade secret
12:00:41 25 issues. I just don't know that even if you start telling

1 me we think it's this and we think it's that, I don't feel
2 like I'm in a position to issue a TRO.

3 One, because they are not manufacturing that one that
4 you had problems with, it is not an emergency to me.

12:00:53 5 There is nothing that says it has to happen.

6 And two, the thing that they have acknowledged they
7 have been manufacturing, they have been manufacturing it
8 for over a year. Well, it's not an emergency to me.

9 But I know that you want some quick resolution to
12:01:04 10 this. I know you need some discovery on this. My thought
11 is let's go ahead and do the discovery now and let's come
12 back, like, October 1st and try this case.

13 What do you think? Do you want to talk to your
14 client?

12:01:15 15 MR. CARTER: I better talk with them, Judge.

16 THE COURT: Go talk to your client. What do
17 y'all think?

18 MR. AHMAD: As a general concept, that sounds
19 perfectly fine. We would like to have discovery on both
12:01:23 20 sides.

21 THE COURT: Well, sure. It wouldn't be
22 one-sided. Come on now, Mr. Ahmad. Do you think I just
23 don't like you because you are wearing that little tie
24 today or what?

12:01:31 25 MR. AHMAD: Well, that did occur to me that I

1 have brought the wrong tie to wear and I saw Mr. Ford's
2 tie and --

3 THE COURT: No. I actually like that tie. I do
4 like that tie. But I would not just say they get to do
12:01:42 5 discovery and you get to sit around with your thumb stuck
6 up your whatever. No. It would be reciprocal discovery,
7 obviously. That doesn't even make any sense.

8 MR. AHMAD: We are fine.

9 THE COURT: Okay. Go talk. I am going to sit
12:01:53 10 here because I can't get up. I'm on crutches, and I might
11 as well just sit myself right here until y'all decide what
12 you are going to do. Take five minutes and come back
13 everybody.

14 (Recess from 12:01 p.m. to 12:09 p.m.)

12:09:41 15 THE COURT: So, Mr. Carter, what do you say?
16 What do you say?

17 MR. CARTER: Mr. Ahmad is not here.

18 MR. FORD: He is on his way in, Your Honor.

19 THE COURT: Oh, I'm sorry. I thought you were
12:09:54 20 going to take this one, Mr. Ford.

21 MR. FORD: I would be happy to, Your Honor.

22 THE COURT: Huh?

23 MR. FORD: I would be happy to, Your Honor.

24 THE COURT: Come on. Come on, Mr. Ahmad. I
12:10:15 25 almost made Mr. Ford step on in here.

1 MR. AHMAD: He knows more than I do.

2 THE COURT: I figure the young peach fuzz always
3 know more than the people with snow on the top, huh.

12:10:29

4 MR. AHMAD: I think the dispute right now is just
5 whether we have a preliminary injunction hearing. We -- I
6 think that --

7 THE COURT: What do you mean whether you have a
8 preliminary injunction hearing? As opposed to a trial on
9 the merits?

12:10:39

10 MR. AHMAD: Well, as opposed to just rolling them
11 all in one. We do want a quick trial date, regardless of
12 whether or not there is a preliminary injunction hearing
13 or not. We would just prefer to have it all at once, and
14 not piecemeal in October.

12:10:49

15 THE COURT: Me, too. Because this is so exciting
16 these screws, you know. I want to do this, like, two or
17 three times, if I can.

18 MR. AHMAD: He thinks it's exciting, Your Honor.
19 He knows all about them.

12:11:01

20 THE COURT: So what do you think, Mr. Carter?

21 MR. CARTER: So, Judge, they are today selling
22 products that we believe are copied. So they are making
23 sales as we speak --

24 THE COURT: Right.

12:11:13

25 MR. CARTER: -- as a result. That's the reason

1 that we need a quick preliminary injunction hearing. If
2 we could do that in early August.

3 THE COURT: There is not any date in August
4 that's going to be available to you. Guess why?

12:11:26

5 MR. CARTER: You wouldn't want to stay?

6 THE COURT: Zero. You have got zero days in
7 August available. You've got July. That means the next
8 two weeks. Or you have got a trial on the merits and
9 preliminary injunction on October the 15th at 1:30.

12:11:40

10 MR. AHMAD: A trial on that date is perfect for
11 us, Your Honor.

12 MR. CARTER: May I have a word, Your Honor?

13 (Sotto voce discussion between counsel.)

12:12:01

14 MR. CARTER: What does July look like for a
15 preliminary injunction hearing?

16 THE COURT: What am I trying? I forgot what is
17 on docket call. Do I just have that retrial of that other
18 case? Is that it?

19 CASE MANAGER: July 22nd, pretrial.

12:12:17

20 THE COURT: How many days was that going to be?
21 Three days, right? I can't get to my calendar. Let me
22 see your phone. I can't reach over that far.

23 CASE MANAGER: That was July 8th.

24 THE COURT: So now I'm free then. Fix this to --

12:12:40

25 obviously, this week is out. So I don't have any -- so

1 that trial for the 8th is gone, right?

2 CASE MANAGER: Yes.

3 THE COURT: So I'm available the week of the 8th.
4 I thought I had a trial. That was one of the ones that
5 got canceled this morning.

12:12:57

6 CASE MANAGER: And the 15th.

7 THE COURT: We've got the 15th that I'm
8 available. We have one trial this month that is scheduled
9 on July 22nd. So I only have next week and the week
10 after, which means that there wouldn't be any time to do
11 any discovery at all really. This is the Fourth of July
12 week. So this is, like, a messed up week. So I have two
13 weeks available.

12:13:08

14 I have the week of July 8th, which is the trial that
15 just got canceled a few minutes ago, and then the week of
16 July 15th and then I have a trial already set July 22nd.
17 That's probably going to take the rest of the week.

12:13:21

18 MR. CARTER: May I have a moment, Your Honor?

19 THE COURT: Sure.

12:14:14

20 (Sotto voce discussion between counsel.)

21 THE COURT: Oh, I'm sorry.

22 MR. CARTER: No, Judge. That's fine. The week
23 of the 29th you are out, I take it?

24 THE COURT: Well, that's what we were just
25 talking about.

12:14:21

1 (Sotto voce discussion with the Court.)

2 THE COURT: How long is this thing going to take,
3 this preliminary injunction hearing?

12:14:51

4 MR. AHMAD: From our end, we don't know because
5 discovery hasn't started.

6 THE COURT: I wasn't really talking to you. I'm
7 really talking to him.

8 MR. CARTER: I would think a day to a day and a
9 half.

12:15:18

10 (Sotto voce discussion with the Court.)

11 THE COURT: We could do it the afternoon of
12 July 29th. So we could start at 1:30 on July 29th and do
13 it then, the 29th and 30th, I guess, the afternoon of the
14 29th and maybe the 30th.

12:16:09

15 MR. CARTER: That would work well, Judge.

16 THE COURT: Then I'm not trying to expedite your
17 trial then. Trust me on that one. You don't get two
18 expedited bites at the apple.

19 MR. CARTER: Understood.

12:16:23

20 THE COURT: So, Mr. Ahmad, do you like this
21 expedited discovery order?

22 MR. AHMAD: With the exception, Judge, I think
23 they had us producing documents in four days.

24 THE COURT: Yeah.

12:16:35

25 MR. AHMAD: We would like at least --

1 THE COURT: Well, it is going to be shorter now.
2 We've got a preliminary injunction hearing in three weeks.

3 MR. AHMAD: That's my concern. We have experts
4 that we're going to try to get for the hearing. That's a
12:16:45 5 concern about the preliminary injunction hearing. That's
6 why we kind of liked doing all the trial at once in
7 October, even September. I understand September may not
8 be available.

9 THE COURT: September is crappy.

10 MR. AHMAD: But October, for us, would give us
11 time to do the experts.

12 THE COURT: They are the ones asking for
13 emergency injunctive relief. I'm just not prepared to do
14 a TRO today. Even after reading everything, I was
12:17:10 15 confused. I was, like, I don't think I'm doing that. I
16 don't even know what I'm giving a TRO on. So that was my
17 only hesitation. I didn't feel like doing the TRO today,
18 but I'm not saying that they are not entitled to emergency
19 injunctive relief, and in the form of a preliminary
12:17:23 20 injunction hearing, it is better to me, where we had a
21 little bit of discovery done.

22 So I'm not going to extend the time in here. If
23 anything, if I have got -- today is July 1st and I have
24 got a hearing one, two, three, four weeks from today. If
12:17:37 25 I have got a preliminary injunction hearing four weeks

1 from today, it would be shortening the time rather than
2 extending the time.

12:17:50

3 MR. AHMAD: And maybe we could have some
4 definition about how many depositions because we're going
5 to have a condensed time period. Maybe --

12:18:00

6 THE COURT: Right. I'll tell you what. You all
7 talk to each other. If you have a problem, pick up the
8 phone. Don't write anything. Just pick up the phone and
9 call Byron. Do we -- do any of us know that right now?
10 Do you know how many you want? How many depositions do
11 you want? How many? How many? You don't know right this
12 second, do you?

13 MR. AHMAD: I would only guess.

12:18:09

14 THE COURT: Think about it. Get together.
15 Kumbayah. Have a little talk. If there is a problem,
16 pick up the phone and call me immediately. Call Byron and
17 say, look. You know, you can say -- you can pick up the
18 phone and say, I have got on a cute tie today. Win Carter
19 is being an asshole. Whatever. And vice versa. And vice
20 versa. You all have worked together long enough. Just
21 figure it out, but get it done. You have got one month.

12:18:28

22 You have got one month and probably less because you
23 are probably going to file some more stuff you want me to
24 read between now and then, which I'm more than happy to

12:18:43

25 do. But I'm in trial the week of the 22nd. I know you

12:18:53

1 are going to have some stuff that you want me to read to
2 be prepared for the hearing, for the preliminary
3 injunction hearing. So I'm signing the order the way that
4 it is. If it turns out to be problematic, just let me
5 know.

12:19:00

6 What about this agreed protective order, Mr. Ahmad?
7 Did you get a chance to look at that?

8 MR. AHMAD: We are fine with that.

9 THE COURT: Okay. I'll go ahead and sign that,
10 too.

11 MR. CARTER: Thank you, Your Honor.

12 THE COURT: What else are we going to do today?

13 MR. CARTER: I think that's it. We will get to
14 work.

12:19:11

15 THE COURT: So the TRO is denied but not the
16 preliminary injunction. I don't know if you filed it --
17 how did you file it? Did you put it all together?

18 MR. CARTER: We put it all together, Judge.

12:19:24

19 THE COURT: The motion for temporary restraining
20 order is denied.

21 The motion for preliminary injunction is -- a ruling
22 is deferred until the hearing on July the 29th.

23 Byron, that's Instrument Number 3.

24 What else? Is there anything else?

12:19:43

25 MR. AHMAD: I don't believe so from the defense

1 then, Your Honor.

2 THE COURT: All right. Y'all have a wonderful
3 rest of the day.

4 ALL COUNSEL: Thank you, Your Honor.

5 *(Proceedings concluded at 12:19 p.m.)*

6 *Date: August 17, 2019*

7 ***COURT REPORTER'S CERTIFICATE***

8 *I, Laura Wells, certify that the foregoing is a*
9 *correct transcript from the record of proceedings in the*
10 *above-entitled matter.*

11

12 /s/ Laura Wells

13 *Laura Wells, CRR, RMR*

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